

**MONTANA  
CHILD SUPPORT GUIDELINES**

(The guidelines are contained in the Administrative Rules of Montana, Title 37, chapter 62, subchapter 1.)

**RULE 1 AUTHORITY, POLICY AND PURPOSE  
(ARM 37.62.101)**

(1) These guidelines are promulgated under the authority of 40-5-209, MCA, for the purpose of establishing a standard to be used by the district courts, child support enforcement agencies, attorneys and parents in determining child support obligations.

(2) These guidelines are based on the principle that it is the first priority of parents to meet the needs of the child according to the financial ability of the parents. In a dissolution of marriage or when parents have never been married, a child's standard of living should not, to the degree possible, be adversely affected because a child's parents are not living in the same household.

(3) These guidelines are structured to determine child support on an annual basis. Payment will be made in equal monthly installments.

(4) As required by 40-4-204, 40-5-226 and 40-6-116, MCA, these guidelines apply to contested, non-contested and default proceedings to establish or modify support orders. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 2 REBUTTABLE PRESUMPTION  
(ARM 37.62.102)**

(1) The guidelines create a presumption of the adequacy and reasonableness of child support awards. However, every case must be determined on its own merits and circumstances and the presumption may be rebutted by evidence that a child's needs are or are not being met.

(2) At the request of one of the parties and upon consideration of the factors set out in the guidelines and in 40-4-204, 40-4-208 and 40-6-116, MCA, the guidelines may be rebutted and a variance from the guidelines amount may be granted. Any consideration of a variance from the guidelines must take into account the best interests of the child.

(3) The support order may vary from the

guidelines in a particular case only if the decree, separation order or support order contains a specific written finding showing justification that application of the guidelines would be unjust or inappropriate, based upon evidence sufficient to rebut the presumption.

(4) Findings that rebut and vary the guidelines must include a statement of the amount of support that would have been ordered under the guidelines without the variance.

(5) Child support may vary from the guidelines based on a stipulation or agreement of the parties only if the stipulation or agreement meets the following criteria:

(a) it is in writing executed by the parties or is entered by a court or administrative proceeding;

(b) the parties have signed the stipulation or agreement free of coercion;

(c) it contains specific justification as to why application of the guidelines is unjust or inappropriate; and

(d) it contains a statement of the amount of support that would have been appropriate under the guidelines without the variance.

(6) A support order granting a variance, based upon the existence of a condition or the performance of an act, must provide that, upon termination of the circumstances which justify the variance, the support immediately reverts to the amount which would have been ordered under the guidelines without the variance. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 3 DEFINITIONS  
(ARM 37.62.103)**

For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Actual income" is defined in ARM 37.62.106.

(2) "CSED" means the child support enforcement division of the department of public health and human services.

(3) "Department" means the department of public health and human services.

(4) "Federal poverty index" means the minimum amount of income needed for subsistence. The amount is developed by the U.S. office of management and budget, revised annually in accordance with 42 USC 9902, and published annually in the federal register.

(5) "Guidelines" means the administrative rules for establishment of child support as provided in ARM Title 37, chapter 62, subchapter 1, as promulgated in 40-5-209, MCA.

(6) "Imputed income" is defined in ARM 37.62.106.

(7) "Legal dependent" means natural born and adopted minor children, spouses, special needs adult children, household members covered by a conservatorship or guardianship, and parent's parents living in the household who are claimed on tax returns as legal dependents.

(8) "Long distance parenting" is defined in ARM 37.62.130.

(9) "Other child" means a child whom a parent is legally obligated to support but who is not the subject of the child support calculation. A step-child is not considered an other child.

(10) "Personal allowance" is defined in ARM 37.62.114.

(11) "Pre-existing support order" means an order entered by a tribunal of competent jurisdiction prior to the calculation or recalculation of support.

(12) "Primary child support allowance" is defined in ARM 37.62.121.

(13) "SOLA" means standard of living adjustment.

(14) "Standard of living" includes the necessities, comforts and luxuries enjoyed by either parent, the child or both parents and the child, which are needed to maintain them in customary or proper community status or circumstances.

(15) "Subsequent child" is defined in ARM 37.62.146.

(16) "Transfer Payment" is defined in ARM 37.62.136. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

#### **RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT**

(ARM 37.62.106)

(1) Income for child support includes actual income, imputed income, or any combination thereof which fairly reflects a parent's resources available for child support. Income can never be less than zero.

(2) Actual income includes:

(a) economic benefit from whatever source derived, except as excluded in (3) of this rule, and includes but is not limited to income from salaries,

wages, tips, commissions, bonuses, earnings, profits, dividends, severance pay, pensions, periodic distributions from retirement plans, draws or advances against earnings, interest, trust income, annuities, royalties, alimony or spousal maintenance, social security benefits, veteran's benefits, workers' compensation benefits, unemployment benefits, disability payments, earned income credit and all other government payments and benefits. A history of capital gains in excess of capital losses shall also be considered as income for child support.

(b) gross receipts minus reasonable ordinary and necessary expenses required for the production of income for those parents who receive income or benefits as the result of an ownership interest in a business or who are self-employed. Straight line depreciation for vehicles, machinery and other tangible assets may be deducted if the asset is required for the production of income. The party requesting such depreciation shall provide sufficient information to calculate the value and expected life of the asset. Internal revenue service rules apply to determine expected life of assets. Business expenses do not include deductions relating to personal expenses, or expenses not required for the production of income.

(c) the value of non-cash benefits such as in-kind compensation, personal use of vehicle, housing, payment of personal expenses, food, utilities, etc.

(d) grants, scholarships, third party contributions and earned income received by parents engaged in a plan of economic self-improvement, including students. Financial subsidies or other payments intended to subsidize the parent's living expenses and not required to be repaid at some later date must be included in income for child support.

(e) allowances for expenses, flat rate payments or per diem received, except as offset by actual expenses. Actual expenses may be considered only to the extent a party can produce receipts or other acceptable documentation. Reimbursements of actual employment expenses may not be considered income for purposes of these rules.

(3) Income for child support does not include benefits received from means-tested veteran's benefits and means-tested public assistance programs including but not limited to the former aid to families with dependent children (AFDC), cash assistance programs funded under

the federal temporary assistance to needy families (TANF) block grant, supplemental security income (SSI), food stamps, general assistance and child support payments received from other sources.

(4) For lump sum social security payments, social security benefits received by a child of the calculation as the result of a parent's disability, refer to ARM 37.62.144.

(5) In determination of a parent's income for child support, income attributable to subsequent spouses, domestic associates and other persons who are part of the parent's household is not considered. If a person with a subsequent family has income from overtime or a second job, that income is presumed to be for the use of the subsequent family, and is not included in income for child support for the purposes of determining support for a prior family.

(6) "Imputed income" means income not actually earned by a parent, but which will be attributed to the parent based on:

(a) the parent's earning potential if employed full-time;

(b) the parent's recent work history;

(c) occupational and professional qualifications;

(d) prevailing job opportunities in the community and earning levels in the community.

(7) Income should be imputed whenever a parent:

(a) is unemployed;

(b) is underemployed;

(c) fails to produce sufficient proof of income;

(d) has an unknown employment status; or

(e) is a full-time student whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is being determined, unless actual income is greater. If income to a student parent is imputed it should be determined at the parent's earning capacity based on a 40 hour work week for 13 weeks and a 20 hour work week for the remaining 39 weeks of a 12 month period. (This is an annual average of 25 hours per week.)

(8) When income is imputed to a parent, federal earned income credit (EIC) should not be added to income and child care expense should not be deducted from income when the effects are offsetting.

(9) Income should not be imputed if any of the following conditions exist:

(a) the reasonable costs of child care for

dependents in the parent's household would offset in whole or in substantial part, that parent's imputed income;

(b) a parent is physically or mentally disabled to the extent that the parent cannot earn income;

(c) unusual emotional and/or physical needs of a legal dependent require the parent's presence in the home.

(d) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or

(e) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However, the amount of imputed income shall be decreased only to the extent required to remove such inequity.

(History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

## **RULE 5 INCOME VERIFICATION/DETERMINING ANNUAL INCOME** (ARM 37.62.108)

(1) A parent must swear to the accuracy and authenticity of all financial information submitted for the purpose of calculating child support.

(2) Income of the parents must be documented. This may include pay stubs, employer statements, income tax returns, profit and loss statements.

(3) To the extent possible, income for child support and expenses should be annualized to avoid the possibility of skewed application of the guidelines based on temporary or seasonal conditions. Income and expenses may be annualized using one of the two following methods:

(a) seasonal employment or fluctuating income may be averaged over a period sufficient to accurately reflect the parent's earning ability; or

(b) current income or expenses may be projected when a recent increase or decrease in income is expected to continue for the foreseeable future. For example, when a student graduates and obtains permanent employment, income should be projected at the new wage.

(4) Income for child support may differ from a determination of income for tax purposes.

(History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 6 ALLOWABLE DEDUCTIONS FROM INCOME**

(ARM 37.62.110)

(1) Allowable deductions from income include:

(a) the amount of alimony or spousal maintenance which a parent is required to pay under a court or administrative order.

(b) an amount for the needs of all "other" children as defined in ARM 37.62.103(9), determined as follows:

(i) when establishing a child support obligation, deduct:

(A) the total of any pre-existing support orders for the other children; and

(B) an amount equal to one-half of the primary child support allowance as found in ARM 37.62.121 for the number of other children for whom no support order exists. These include children who reside with the parent as well as children who do not.

(ii) when modifying a current child support order, deduct the amount determined under ARM 37.62.146.

(c) the amount of any health insurance premium which either parent is required to pay under a court or administrative order for a child not of this calculation;

(d) the actual income tax liability based on tax returns. If no other information is available, use the tax tables which show the amount of withholding for a single person with one exemption;

(e) the actual social security (FICA plus medicare) paid;

(f) actual unreimbursed expenses incurred as a condition of employment such as uniforms, tools, safety equipment, union dues, license fees, business use of personal vehicle and other occupational and business expenses;

(g) actual mandatory contributions toward internal revenue service (IRS) approved retirement and deferred compensation plans. Mandatory contributions are fully deductible;

(h) one-half reasonable expenses for items such as child care or in-home nursing care for the parent's legal dependents other than those for whom support is being determined, which are actually incurred and which are necessary to allow the parent to work, less federal tax credits. Do not deduct imputed child care expenses when imputing income;

(i) extraordinary medical expenses incurred by a parent to maintain that parent's health or earning capacity which are not reimbursed by insurance, employer, or other entity; and

(j) court ordered payments except as excluded under ARM 37.62.111.

(k) cost of tuition, books and mandatory student fees for a parent who is a full-time student as anticipated under ARM 37.62.106(7)(e).

(2) Allowable deductions from income for child support differ from allowable deductions for tax purposes. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 7 NON-ALLOWABLE DEDUCTIONS FROM INCOME**

(ARM 37.62.111)

(1) Deductions which are not allowable under these rules include:

(a) payroll deductions for the convenience of the parent, such as credit union payments and savings;

(b) a net loss in the operation of a business or farm used to offset other income;

(c) investment losses outside the normal course of business;

(d) expenses incurred for the support of a spouse capable of self-support;

(e) payments for satisfaction of judgments against a parent related to the purchase of property for the parent's personal use;

(f) bankruptcy payments except to the extent that they represent debts for expenses which would otherwise be deductible; or

(g) a stepchild and associated costs.

(History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 8 PERSONAL ALLOWANCE**

(ARM 37.62.114)

(1) Personal allowance is an amount which reflects 1.3 multiplied by the federal poverty index guideline for a one person household. This amount is deducted when determining child support. Personal allowance is a contribution toward, but is not intended to meet the subsistence needs of parents.

(2) Adjustments for the needs of other legal dependents of a parent are limited to those provided for in ARM 37.62.110. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 9 INCOME AVAILABLE FOR CHILD SUPPORT**  
(ARM 37.62.116)

(1) Income available for support is determined by subtracting from each parent's income, the deductions allowed under ARM 37.62.110 and the amount of personal allowance determined under ARM 37.62.114. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 10 TOTAL INCOME AVAILABLE/PARENTAL SHARE**  
(ARM 37.62.118)

(1) The parents' incomes available for child support are combined to determine the total income available for child support. Each income is divided by the total. The resulting factor determines each parent's share of the primary child support allowance under ARM 37.62.121 and supplements under ARM 37.62.123.

(2) For any parent whose support obligation is determined according to the provisions of ARM 37.62.126(1)(a) and (1)(b), the amount of the minimum contribution is substituted for that parent's total income available for child support for the purpose of determining each parent's share of the primary child support allowance and supplements. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 11 PRIMARY CHILD SUPPORT ALLOWANCE**  
(ARM 37.62.121)

(1) Primary child support allowance is a standard amount to be applied toward a child's food, shelter, clothing and related needs and is not intended to meet the needs of a particular child. This allowance is .30 multiplied by the personal allowance found at ARM 37.62.114 for the first child. For the second and third children, the personal allowance is multiplied by .20 and added for each child. For four or more children, the

personal allowance is multiplied by .10 and added for each additional child. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 12 SUPPLEMENTS TO PRIMARY CHILD SUPPORT ALLOWANCE**  
(ARM 37.62.123)

(1) The primary child support allowance is supplemented by:

(a) reasonable child care costs incurred by a parent for children of the calculation as a prerequisite to employment. The child care expense is reduced by the federal dependent care tax credit;

(b) costs required for health insurance coverage for the children of the calculation. Include only those amounts which reflect the actual costs of covering the children; and

(c) other needs of the child as determined by the circumstances of the case, including other health related costs.

(2) The total supplemental needs of the child are divided proportionately between the parents according to the parental share determined under 37.62.118.

(3) Each parent will receive credit for the amount of the supplemental needs paid by that parent. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 13 MINIMUM SUPPORT OBLIGATION**  
(ARM 37.62.126)

(1) A specific minimum contribution toward child support should be ordered in all cases when the parent's income is insufficient to meet the parent's personal allowance or the parent's child support obligation is less than 12% of that parent's income after deductions.

(a) For parents whose income as defined in ARM 37.62.106 after deductions, as defined in ARM 37.62.110 is insufficient to meet the parent's personal allowance, the minimum contribution is a portion of the income after deductions and is determined by applying the table in (3) as follows:

(i) divide the income after deductions by the personal allowance as defined in ARM 37.62.114 to determine the income ratio;

(ii) find the income ratio in Column A;

(iii) locate the corresponding minimum contribution multiplier in Column B; and  
 (iv) multiply the income after deductions by the minimum contribution multiplier. The result is the parent's minimum contribution.

(b) For parents whose income after deductions exceeds the personal allowance, the parent's minimum contribution is the greater of:  
 (i) the difference between income after deductions and the parent's personal allowance; or  
 (ii) 12% of income after deductions.

(2) The minimum contributions under this rule are presumptive and may be rebutted by the circumstances of a particular case, provided there is an appropriate finding on the record. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

(3) The table for determining the minimum support obligation of a parent whose income after deductions is insufficient to meet the parent's personal allowance is as follows:

<u>Column A</u> "Income Ratio"	<u>Column B</u> "Minimum Contribution Multiplier"
over .00 to .25	.00
.25 to .31	.01
.31 to .37	.02
.37 to .43	.03
.43 to .50	.04
.50 to .56	.05
.56 to .62	.06
.62 to .68	.07
.68 to .75	.08
.75 to .81	.09
.81 to .87	.10
.87 to .93	.11
.93 to 1.00	.12

**RULE 14 INCOME AVAILABLE FOR STANDARD OF LIVING ADJUSTMENT (SOLA)**  
 (ARM 37.62.128)

(1) The purpose of SOLA is to ensure that the child enjoys, to the extent possible, the standard of living commensurate with the parent's income. If a parent has income available after deducting the personal allowance and the parent's share of the child support allowance as supplemented, the remaining income is subject to SOLA.

(2) SOLA is calculated by subtracting from the parent's income available for support, as provided in ARM 37.62.116 the parent's share of the primary child support allowance under ARM 37.62.121 and supplements as provided in ARM 37.62.123.

(3) If income is available for SOLA, multiply the income by the SOLA factor from the following table which corresponds to the number of children for whom support is being determined.

<u>Number of Children</u>	<u>SOLA FACTOR</u>
1	.14
2	.21
3	.27
4	.31
5	.35
6	.39
7	.43
8 or more	.47

(4) Income available for SOLA may not be less than zero.  
 (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 15 LONG DISTANCE PARENTING ADJUSTMENT**  
 (ARM 37.62.130)

(1) Long distance parenting is any travel by a parent or child to attain the goals of the parenting plan. A long distance parenting adjustment is allowed when travel by a parent or child exceeds 2,000 miles in a calendar year.

(2) The amount of income available for SOLA is reduced to the extent the actual annual expense of transportation for long distance parenting exceeds 2,000 miles multiplied by the current IRS business mileage rate (standard expense). The reduction is determined separately for each parent.

(3) The reduction is calculated as follows:

- (a) multiply the parent's annual mileage driven to exercise long-distance parenting by the current IRS business mileage rate;
- (b) add the annual cost of transportation by means other than automobile;
- (c) subtract the standard expense from the total of (3) (a) and (b) above; and
- (d) subtract any difference greater than zero from the parent's income available for SOLA.

(4) Expenses are limited to costs of transportation and do not include meals, lodging, or other costs.

(5) A long distance parenting adjustment may not reduce income available for SOLA below zero. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 16 TOTAL MONTHLY SUPPORT AMOUNT**  
(ARM 37.62.134)

(1) The total monthly support amount consists of:

(a) the primary child support allowance, with supplemental needs, if any, plus the standard of living adjustment; or

(b) the minimum support obligation determined under ARM 37.62.126.

(2) In setting the amount of order per child, the total monthly support should be divided equally among the children, except when it is allocated according to supplemental needs as provided in ARM 37.62.138. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 17 TRANSFER PAYMENT**  
(ARM 37.62.136)

(1) Applying ARM 37.62.101 through 37.62.134 results in a child support obligation for each parent. If all the children of the calculation spend 110 days or less with a parent, all of that parent's obligation is due and payable to the other parent. This is the transfer payment, which may be adjusted in accordance with ARM 37.62.138. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 18 PAYMENT OF MONTHLY SUPPORT AMOUNT IN COMBINATION PARENTING ARRANGEMENTS**  
(ARM 37.62.138)

(1) If any child of a calculation spends more than 110 days with both parents, there will be an adjustment to the portion of the obligation due and payable from one parent to the other.

(2) The adjusted transfer payment is determined as follows:

(a) recalculate the needs of each child separately;

(b) allocate each parent's obligation to each child based upon that child's proportionate need;

(c) adjust the obligation of each parent proportionately for each child who spends between 110 and 183 days with both parents;

(d) total each parent's obligation for all children; and

(e) offset the transfer payments. The parent owing the higher transfer payment pays the difference between the two transfer payments to the other parent.

(3) For the purposes of this rule, a day is when a child spends the majority of a 24 hour calendar day with or under the control of a parent. This assumes that there is a correlation between time spent and resources expended for the care of the child. Reference can be made to the residential schedule in the parenting plan ordered under 40-4-234, MCA. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 19 ANTICIPATED CHANGES**  
(ARM 37.62.140)

(1) When child support is determined, if any material change is anticipated within 18 months, separate child support calculations should be completed.

(2) In the initial calculation, present circumstances should be included. In the subsequent calculation(s), appropriate anticipated changes should be calculated. The child support order should provide that the amount(s) from the subsequent calculations will take effect the month following the anticipated changes. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 20 SUPPORT PAYABLE IN DOLLARS**  
(ARM 37.62.142)

(1) The child support order is to be paid in U.S. dollars.

(2) Gifts, clothing, food, payment of expenses, etc., in lieu of dollars will not be allowed as a credit for payment of a child support obligation except by court or administrative order.

(3) Direct payments to the child, the parent or a third party will not be allowed as credit for payment of a child support obligation payable through the clerk of court, the child support

enforcement division or other entity specified in the court or administrative order. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 21 SOCIAL SECURITY BENEFITS**  
(ARM 37.62.144)

(1) Social security benefits which are based on the earning record of either parent shall be considered in establishing new support orders or modification of existing orders under the following conditions:

(a) benefits received by the parent on behalf of the minor child are not to be included in that parent's gross income;

(b) the parent's obligation is satisfied if the amount of the child's benefit received for a given month as a result of that parent's earning record is equal to or greater than the parent's child support obligation. Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment or as future support;

(c) the parent must pay the difference if the amount of the child's benefit for a given month is less than the parent's child support obligation. This amount is presumed to be paid if the child resides with that parent a majority of the time; and

(d) whenever either parent receives for the benefit of the child, a lump sum payment which represents an accumulation of monthly benefits:

(i) the lump sum payment should not be treated as income of the parent; and

(ii) the lump sum should be credited to that parent's child support obligation for each month a payment accumulated for the child's benefit.

(History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 22 MODIFICATIONS OF CHILD SUPPORT ORDERS**  
(ARM 37.62.146)

(1) Subsequent child is a parent's natural or adopted child, not the subject of the order being modified who:

(a) is not the subject of a support order and was born after entry of the support order being modified; or

(b) is the subject of another support order entered after entry of the support order being modified.

(2) Any other child must be considered in accordance with ARM 37.62.110(1)(b).

(3) In a proceeding to modify an existing order, the support obligation of each parent is calculated considering all children, prior and subsequent, of each parent. Then the support obligation of each parent is calculated considering no subsequent children of either parent.

(a) If both calculations result in a decrease in the transfer payment due and payable from the obligated parent, the lesser of the decreases in the transfer payment is granted.

(b) If both calculations result in an increase in the transfer payment due and payable from the obligated parent, the lesser of the increases in the transfer payment is granted.

(c) If the first calculation results in a decrease and the second calculation results in an increase, or if the reverse is true, no modification is granted. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

**RULE 23 SUPPORT GUIDELINES TABLES/FORMS**  
(ARM 37.62.148)

(1) The child support enforcement division (CSED) has developed a child support determination worksheet. Copies of this worksheet may be obtained from the Department of Public Health and Human Services, Child Support Enforcement Division, P.O. Box 202943, Helena, MT 59620 or any regional office.

2) Included for use with the worksheet are a financial affidavit, necessary tables and information for completion of the guidelines calculation. To assure that these tables are current, the child support enforcement division will republish the worksheet with tables annually as soon as practical after release of information upon which tables are based. The worksheet with tables will be identified by the year of publication or republication.

(3) The child support guidelines worksheets, or a replica of those forms with a similar format and containing the same information, must be used in all child support determinations under the guidelines and a copy must be attached to the support order. (History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/01/98.)

# INDEX

TOPIC	PAGE
Actual income	1,2,3
AFDC (Aid to Families with Dependent Children)	3
Alimony	2,4
Annuities	2
Anticipated changes	7
Assets	2
Bankruptcy	4
Bonuses	2
Business expenses	2,4
Capital gains/losses	2
Child care	3,4,5
Child support payments	3
Combination parenting	7
Commissions	2
CSED (Child Support Enforcement Division)	1,8
Day	7
Deductions from income	4
Deferred compensation	4
Department of Public Health and Human Services	1,8
Dependent care tax credit	4,5
Depreciation	2
Disability	2,3
Dividends	2
Earned income credit	2,3
Employment expenses	2,4
Federal poverty index guideline	1,5
FICA (Federal Insurance Contribution Act)	4
Food stamps	3
Gifts	8
Grants (educational)	2
Gross income - see Income for child support	
Health Insurance	4,5
Imputed income	2,3,4
In-kind income/compensation	2
Income after deductions	6
Income for child support	2,3,4,5
Income tax	3,4
Interest	2
Investments	4
Judgments	4
Legal dependent	2,3,4,5
Long distance parenting	2,6,7
Lump sum payments	3,8
Medical expenses	4,5
Medicare	4
Minimum support obligation	5,6,7
Modification	1,8
Net income - see Income after deductions	
Other child	2,4,8
Overtime	3
Parenting	2,6,7
Parenting plan	6,7

TOPIC	PAGE
Pensions	2
Per diem	2
Personal Allowance	2,5,6
Primary child support allowance	2,4,5,6,7
Public assistance	3
Rebuttable Presumption	1
Reimbursement	2,4
Retirement	2,4
Royalties	2
Safety equipment	4
Salary	2
Scholarships	2
Self-employment	2,3
Severance pay	2
Shared custody - see Parenting	
Social security	2, 3, 4,8
Split custody - see Parenting	
Spousal maintenance	2,4
Spouse	2,3,4
SSI (Supplemental Security Income)	3
Standard of living	1,2,6,7
Standard of Living adjustment (SOLA)	2,6,7
Step-child	2,4
Students	2,3,4
Subsequent child	2,8
Subsequent family	3
Supplements to primary support allowance	5,6,7
Support order	1,2,4,7,8,9
TANF (Temporary Assistance for Needy Families)	3
Tools	4
Transfer payment	2,7,8
Unemployment benefits	2
Uniforms	4
Union dues	4
Variance	1
Veteran's benefits	2,3
Visitation - see long distance parenting	
Wages	2
Workers' compensation benefits	2